

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Civil Writ Petition No.3603 of 2015

Date of decision: 27.2.2015

Lashmi Dass and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.S.K.Rattan, Advocate,
for the petitioners.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

Those of the petitioners who have retired 3 years prior to the date of filing of this petition, which bears the stamp of Filed Today, i.e., 25.2.2015, would not be entitled to the monetary benefits of arrears of difference of salary for discharging duties and responsibilities of a higher post on current duty charge or on temporary basis without substantively holding the higher posts. However, petitioners No.8 and 9 who are in service may have an actionable right to claim the difference of arrears of higher pay scale for discharging the duties of a higher post on current duty charge or by a temporary arrangement in view of the law settled in **Smt. P.Grover v. State of Haryana**; 1983 (4) SCC 291 and chain of cases including many Division Benches and several decisions of this Court

following the principles in *Smt.P. Grover* to which reference is not necessary.

So far as petitioners No.8 and 9 are concerned, their claim is directed to be considered by the competent authority which will apply the principles of equal pay for equal work and the principles of *quantum meruit* and the principles laid down in *Smt.P. Grover* and to decide the representation by separating the cases of petitioners No.8 and 9 from the legal notice dated 4.1.2015 [P-13] and decide their cases independently by a speaking order. If relief is granted, it would not be necessary to hear the two petitioners and the arrears can be granted to them through office orders. In case, a view different is to be taken for any valid reason, which chance appears slim, then the petitioners would have a right of hearing and a well reasoned speaking order be passed distinguishing the above case law on facts and after such decision is taken, it be communicated to the petitioners forthwith.

However, in the case of petitioners No.1 to 7, who have retired on reaching the age of superannuation prior to 3 years before the date of filing of this petition, then they are not held entitled to arrears of difference of salary because, not that they do not have the right but for the reason that the remedy is taken away by the Limitation Act, 1963 (reference article 137). However, it is the submission of Mr.Rattan learned counsel appearing for them that during the period of subsistence of the CDC, the aforesaid petitioners had reached the end of the pay scales and had become entitled to one additional increment when they became eligible to substantively hold the higher post. Even though petitioners No.1 to 7 were not promoted to the higher post before they retired but they press that one additional increment

may be added to their pay notionally one day before retirement so that when the additional increment is granted/added, it would lead to increase in pay and re-issue their last pay certificate. While this is done, it would impact pension which would increase. This claim is a recurring claim since it is a claim for pension, a very valuable right protected constitutionally by article 300A. To this extent, the respondent authority competent to take decision on the representation [as bifurcated by this Court into two parts] would take a view in the matter and pass a final order and if necessary, to hear petitioners No.1 to 7 on their claims. This exercise is directed to be completed within a period of 3 months from the date of receipt of a certified copy of this order.

With the above directions, the petition stands disposed of.

(RAJIV NARAIN RAINA)
JUDGE

February 27, 2015
Paritosh Kumar